**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PHISHME, INC.,
 	
        Plaintiff,
 	
      v.
 	
WOMBAT SECURITY TECHNOLOGIES, INC.,
 	
        Defendant.
	C.A. No. 16-403-LPS-CJB

**[STIPULATED] ORDER REGARDING ELECTRONICALLY STORED
INFORMATION**

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the undersigned parties ("Parties"), and subject to the approval of the Court, that the following provisions shall govern the discovery of electronically stored information in the above-captioned action:

1.   This Stipulation and Order will govern discovery of electronically stored information ("ESI") in this case as a supplement to the Federal Rules of Civil Procedure, the District of Delaware Local Rules, the District of Delaware Default Standard for Discovery, Including Discovery of Electronically Stored Information ("Default ESI Standard"), the Stipulated Protective Order (D.I. 24), and any other applicable orders and rules. For clarification, the Default ESI Standard applies unless otherwise provided below.

2.   This Stipulation and Order may be modified in the Court's discretion or by written agreement of the Parties.

3.   **Paragraph 3 Disclosures**. The deadline for Paragraph 3 disclosures outlined in the Default ESI Standard is January 13, 2017.

4.   **Custodian and Search Terms Limits.** The Parties agree to each produce ESI from seven custodians (an "ESI Custodian" or the "ESI Custodians") out of the ten custodians disclosed by each party pursuant to Paragraph of the Default ESI Standard. The parties further agree to use no more than fifteen search terms per ESI Custodian, subject to the provisions set forth below. In counting the number of search terms, conjunctive combinations of multiple words or phrases (*e.g.*, "computer" and "system") shall count as a single term, and disjunctive combinations of multiple words or phrases (*e.g.*, "computer" or "system") shall count as a separate search term for each word or phrase. Variants of the same word or phrase, however, shall count as a single search term. Each Producing Party agrees to use its best efforts to disclose

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all known analogs of any search term proposed by the Receiving Party that the Producing Party uses in the ordinary course of business.

5.   **Custodian Names and Search Terms to Be Exchanged.** The parties shall work together in good faith to agree on ESI Custodians and search terms, using an iterative process to identify search terms that yield a number of documents that is proportional to the needs of this case. The parties shall meet and confer concerning ESI Custodians and search terms pursuant to the following schedule:

- January 18, 2017: the parties shall exchange lists of seven proposed ESI Custodians and a maximum of fifteen proposed search terms per ESI Custodian for use in searching custodial ESI, with each Receiving Party to provide a list of proposed ESI Custodians and search terms to each Producing Party.

- January 25, 2017: the parties shall provide responses and objections to each other's lists of proposed ESI Custodians and search terms based, at least in part, on the results of test searches performed by the Producing Party based on the Receiving Party's proposed ESI Custodians and search terms.

- January 30–31, 2017: the parties shall meet and confer regarding proposed ESI custodians and search terms, with further meet-and-confer sessions scheduled on an as-needed basis.

At the conclusion of the meet-and-confer process, the Parties will jointly submit to the Court any unresolved disputes concerning ESI Custodians or search terms. Notwithstanding any disputes that may be submitted to the Court, and to the extent practicable, the Producing Party shall search for and produce custodial ESI using the agreed ESI Custodians and search terms prior to the Court's resolution of any disputes. The Parties shall use the results of the ESI search

and collection process to search for and produce custodial ESI documents responsive to their

requests for production. The Parties further agree that, absent a Court order, the Producing Party

is not obligated to search for, review, or produce custodial ESI documents that otherwise are

responsive to the Receiving Party's discovery requests where such custodial ESI documents

(i) are not within the possession or custodial files of one of the seven ESI Custodians selected by

the Receiving Party or (ii) are within the possession or custodial files of one of the seven ESI

Custodians but do not contain one of the fifteen search terms which apply to that ESI Custodian;

provided, however, that the Producing Party shall not withhold any custodial ESI document of

which it has specific knowledge as to the document's existence, responsiveness, and relevance

and that is not subject to the Producing Party's objections to the Receiving Party's discovery

requests based on the absence from that document of one of the fifteen search terms applicable to

that ESI Custodian. The Parties further agree that the above ESI framework shall not apply to

the search for or production of non-custodial ESI sources disclosed pursuant to paragraph 3(b) of

the Default ESI Standard, and that the parties are obligated to conduct a reasonable search of

those sources in response to the opposing party's discovery requests.

6.   **Format for Production of Documents Existing in Electronic Format.**

Documents should be produced as single-page tiff images with an .opt image cross reference file

and a Concordance delimited database load file (.DAT). The documents should be logically

unitized (i.e., contain correct document breaks: for instance, a five-page fax consisting of a cover

page and a four-page memo should be unitized as a five-page document). Multi-page

OCR/Extracted text for each document should also be provided.

7.   **Metadata.** The Parties agree to provide the following metadata, to the extent

available, for each produced ESI document in the relevant productions' DAT files:

FIELD	DEFINITION
BEGDOC	Beginning control number assigned to each page/document
ENDDOC	Ending control number assigned to each page/document
BEGATT	Beginning bates number of attachment range
ENDATT	Ending bates number of attachment range
Attachment Names	Subjects or file names of attachments (populated for parent documents only)
Custodian	Document custodian
File Name	Name of document (eDoc)
File Extension	File extension (xls, doc, etc.)
File Size	Size of file in KB
Page Count	Number of pages (only for imaged documents)
Author	Creator of document (eDoc)
Title	Title of document (eDoc)
Subject	Subject line of email
From	Author of email
To	Recipients of email
CC	Carbon copy recipients of email
BCC	Blind copy recipients of email
Sent Date	Date email is sent
Sent Time	Time email is sent
Received Date	Date email is received
Received Time	Time email is received
Create Date	Date document was created
Last Modified Date	Date document was last modified
Last Modified Time	Time document was last modified
Last Access Date	Date document was last accessed
Date last printed	Date document was last printed
Date last saved	Date document was last saved
SentModDate	Sent date (email) or last modified date (non-email)
SentModDate_Family	SentModDate of parent populated for all documents in family
MD5 Hash	Hash tag created during processing
Conversation Index	Email ID for email threads
Duplicate Custodian Names	Custodians who possessed an exact of copy of document
Location/File Path	Original Server location of data
Text Link	Link to multi-page extracted text file or OCR text file
Native Link	Link to naïve files (populated for natively-produced documents)

8.   **Format for Production of Documents – Hardcopy or Paper Documents**. All

documents that are hardcopy or paper files shall be scanned and produced in the same manner as

documents existing in electronic format, above. The Parties agree to provide the following

information for each produced hardcopy or paper file in the relevant productions' DAT files:

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FIELD	DEFINITION
BEGDOC	Beginning control number assigned to each page/document
ENDDOC	Ending control number assigned to each page/document
BEGATT	Beginning bates number of attachment range
ENDATT	Ending bates number of attachment range
Page Count	Number of pages
Custodian	Document custodian
Text Link	Link to multi-page extracted text file or OCR text file

9. **Source Code**. PhishMe shall make any source code available for inspection at the offices of Morrison & Foerster LLP, 2000 Pennsylvania Ave, NW Suite 6000, Washington, DC 20006. Wombat shall make any source code available for inspection at the offices of K&L Gates LLP, 210 Sixth Avenue, Pittsburgh, Pennsylvania 15222. This Stipulation does not govern the format for production of source code, which shall be made available pursuant to paragraph 8 of the Protective Order.

10. **Native Files.** The Parties agree to produce in native format files not easily converted to image format, such as Excel and Access files. The Parties agree to meet and confer to discuss requests for the production of other native files on a case-by-case basis and reserve the right to seek relief from the Court. Each native file should be named according to the Bates number it has been assigned, and should be linked to its corresponding record in the load file using the NATIVELINK field. Documents produced natively shall be represented in the set of imaged documents by a slipsheet indicating the production identification number and confidentiality designation for the native file that is being produced.

11. **Parent and child emails**. The Parties shall produce email attachments sequentially after the parent email.

12. **Bates Numbering.** Each Producing Party shall include legible Bates Numbers specific to this action on its produced documents.

13. **Categories that Need Not Be Preserved.** The categories of ESI in Schedule A

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of the Default ESI Standard need not be preserved.

Dated: December 21, 2016

YOUNG CONAWAY STARGATT & TAYLOR, LLP   K&L GATES LLP *[Local Counsel block]*

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SO ORDERED this ___ day of _____, 201__.

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JUDGE CHRISTOPHER J. BURKE
UNITED STATES MAGISTRATE JUDGE